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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,666	01/24/2002	Wolfgang Billinger	P67552US0	8422

136 7590 03/13/2003

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EXAMINER

HOLZEN, STEPHEN A

ART UNIT

PAPER NUMBER

3644

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/053,666

Applicant(s)

BILLINGER ET AL.

Examiner

Stephen A. Holzen

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's prior art disclosure in view of ordinary skill in the art.

Re - Claim 1: The applicant's prior art disclosure teaches at least one fitting and a movable part. The applicant does not disclose as prior art a fitting glued with a movable part. It would have been obvious to one having ordinary skill in the art at the time the invention was made to glue the fitting with the movable part since the examiner takes Official Notice of the equivalence of Gluing and Bolting for their use in the "attachment" art and the selection of any of these known equivalents to attach a fitting to a movable element would be within the level of ordinary skill in the art. Further Fisher (4,275,122) shows that attachments can be made between fitting and a movable piece with glue. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use glue to secure a fitting and a movable piece.

Re Claim 2, 3 and 13: The applicant's prior art disclosure discloses the claimed invention except for fitting and movable part compositions. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use any

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material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In *Re Leshin* 125 USPQ 416.

Re - Claim 4, 5: The applicant has disclosed that it is prior art to use additional connecting means when attaching a fitting and a movable part together. Please see Figure 2 of the present application. The applicant teaches that multiple bolts/ screw or the like are usable to increase the strength of the connecting point. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to use additional attachment means as taught by figure 2.

Re - Claim 6: The applicant has taught in the present application that the resin transfer molding method is well known. It would have been obvious to make this fitting with synthetic material according to the resin transfer molding method as disclosed on page 4 lines 23-34 of the present invention.

Re - Claims 7, 8, 9: The applicant has disclosed these limitation are prior art in his prior art disclosure. It would have been obvious to use the claimed materials as taught by the applicant on page 4 lines 23+. Further it would have been obvious to use a reactive material sewed or woven in said carbon fabric, wherein said reactive material is nylon. Furthermore the applicant teaches all the working parts of the invention except for the material from which the invention is made. It would have further been obvious to one having ordinary skill in the art at the time the invention was made to select a specific

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material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USQP 416.

3. Claim 10-12 is rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's prior art disclosure in view of Padden. Padden discloses that it is well known to provide an intonation, or recess or a top and bottom covering for arranging the fitting therein, for the purpose of increased structural support. It would have been obvious at the time of the invention to one having ordinary skill in the art to include the teachings of Padden into the applicant's prior art teachings for increased structural support.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over the applicant's prior art disclosure in view of ordinary skill in the art. The applicant discloses every aspect of the applicant's invention except wherein said fitting and said movable part are produced in one piece. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make said fitting and said movable part in one piece since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. However v. Detroit Stove works. 150 U.S. 164 (1993).

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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6. Claims 1 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Regarding claim 1, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

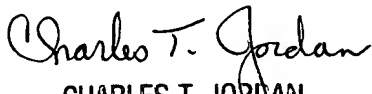
8. Claim 14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim has a different scope than that of Claim 1. The applicant cannot claim a material made of one piece in a dependant claim when the claim from which the dependant claim depends claims the subject matter to be made in two separate pieces. It is indefinite because the applicant has not positively defined his subject matter. Is the piece only one? Is it two pieces? Correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 703-308-2484. The examiner can normally be reached on M-F 7:30 - 5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on 703-306-4159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4174.

  
CHARLES T. JORDAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

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March 6, 2003